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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,924	08/22/2001	Brian R. Beams	05222.00184	9686
29638	7590	02/22/2007	EXAMINER	
BANNER & WITCOFF, LTD. ATTORNEYS FOR CLIENT NO. 005222 10 S. WACKER DRIVE, 30TH FLOOR CHICAGO, IL 60606			SALAD, ABDULLAHI ELMU	
		ART UNIT		PAPER NUMBER
				2157
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/22/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/934,924	BEAMS ET AL.	
	Examiner Salad E. Abdullahi	Art Unit 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 December 2006.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) 39-57 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 20-38 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____.

### Response

1. The amendment filed on 12/5/2006 has been received and made of record.
2. The applicant's arguments filed on 12/5/2006 with respect to claims 20-38 have been considered but are not persuasive for the following reasons.
3. Applicant alleges "Herz does not suggest anything about dynamically adding second virtual instructor with the first virtual instructor and the one or more users".
4. Examiner respectfully disagrees, because Herz discloses the system will recommend the most appropriate on-line lecture either involving a virtual tutor where the student may receive a recommendation of the name of the most skilled or experienced faculty or student recommended tutor (that is adding virtual tutors as needed basis on the student needs)(see col. 94, lines 47-67).
5. Furthermore, Herz discloses "in one approach school activities (from either one or a large number of schools) may be accessible for participation remotely. Classroom lectures, continuing education seminars, conferences, tutorials for job training (or on-going job training requirements) may apply. The most exemplary application however is the virtual classroom. Students may use nearest neighbor indexing to either describe or present a particular topic or problems or a query. The system will recommend the most appropriate on-line lecture either live, if the student wishes to interact (e.g., recommending the next scheduled time) or the most appropriate pre-recorded lecture. For solutions to problems, a virtual tutor involving (either a live or pre-recorded single (closed) session or multi-student session may be presented similarly) or the student may receive a recommendation of the name of the most skilled or experienced faculty

or student recommended tutor. In the classroom application the student may either present questions on-line to the lecturer (throughout the lecture or at pre-designated intervals) or the best ones may be selected by a moderator) (see col. 94, lines 47-67). This obviously indicates dynamically adding second virtual instructor with the first virtual instructor and the one or more users

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 20-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniels in view of Herz U.S. Patent No. 6,029,195[hereinafter Herz].

As per claim 20, Daniels disclose a method for providing one or more virtual instructors (virtual teacher), comprising the steps:

connecting a server and one or more users and first virtual instructor (first teacher) (see col. 3, lines 15-40 and col. 4, lines 19-50 and col. 6, lines 37-64);  
selecting a destination (location, class room) within the server to interact with one or more users (see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50);  
coupling the one or more users through the server based on the selected destination see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50); and

establishing interaction parameters (providing support functions ) for the one or users based on the selected destination (see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50).

Daniels is silent regarding: dynamically adding second virtual instructor with the first virtual instructor and the one or more users.

Herz discloses teacher load balancing system including dynamically adding second virtual instructor (second teacher) (see col. 94, lines 47-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate the teaching of Herz into the system of Daniels such that more proficient teachers in math or reading can be assigned to teach less proficient students based needs of the students.

In considering claim 21, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor monitors progress and provides feedback (see col. 3, lines 29-31 and col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 22, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor (second teacher) is selected by one more users (see col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 23, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor becomes the principal (see col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 24, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor works with the first instructor to instruct the one or more users (see col. 6, lines 36-63).

In considering claim 25, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor collaborates privately with the first instructor (see col. 6, lines 36-63).

In considering claim 26, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor leads a breakout session with one or more users (see col. 13, lines 8-13).

In considering claim 27, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, the second virtual instructor is selected by the first virtual instructor (see col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 28, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, the second virtual instructor the interaction parameters

include support of for electronic distribution of materials from the second virtual instructor (see col. 6, lines 36-63 and col. 14, lines 37-64).

As per claim 29, Daniels disclose an apparatus for providing one or more virtual instructors (virtual teacher), comprising the steps:

logic that connects a server and one or more users and first virtual instructor (first teacher) (see col. 3, lines 15-40 and col. 4, lines 19-50 and col. 6, lines 37-64);  
logic that selects a destination (location, class room) within the server to interact with one or more users (see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50);  
logic that couples the one or more users through the server based on the selected destination see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50); and  
logic that establishes interaction parameters (providing support functions ) for the one or users based on the selected destination (see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50).

Daniels is silent regarding: dynamically adding second virtual instructor with the first virtual instructor and the one or more users.

Herz discloses teacher load balancing system including dynamically adding second virtual instructor (second teacher) (see col. 94, lines 47-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate the teaching of Herz into the system of Daniels such that more proficient teachers in math or reading can be assigned to teach less proficient students based needs of the students.

As per claim 30, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors comprising the steps: a code that connects a server and one or more users and first virtual instructor (first teacher) (see col. 3, lines 15-40 and col. 6, lines 37-64); a code that selects a destination (location, class room) within the server to interact with one or more users (see fig. 4, and col. 3, lines 15-40 ); a code that couples the one or more users through the server based on the selected destination (see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50); and a code that establishes interaction parameters (providing support functions ) for the one or users based on the selected destination (see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50).

Daniels is silent regarding: dynamically adding second virtual instructor with the first virtual instructor and the one or more users.

Herz discloses teacher load balancing system including dynamically adding second virtual instructor (second teacher) (see col. 94, lines 47-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate the teaching of Herz into the system of Daniels such that more proficient teachers in math or reading can be assigned to teach less proficient students based needs of the students.

In considering claim 31, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20, wherein the second virtual instructor monitors progress and provides feedback (see col. 3, lines 29-31 and col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 32 Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20, wherein the second virtual instructor (second teacher) is selected by one more users (see col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 33, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20, wherein the second virtual instructor becomes the principal (see col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 34, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20, wherein the second virtual instructor works with the first instructor to instruct the one or more users (see col. 6, lines 36-63).

In considering claim 35, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20,

wherein the second virtual instructor collaborates privately with the first instructor (see col. 6, lines 36-63).

In considering claim 36, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20, wherein the second virtual instructor leads a breakout session with one or more users (see col. 13, lines 8-13).

In considering claim 37, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20, wherein the second virtual instructor is selected by the first virtual instructor (see col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 38, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20, wherein the second virtual instructor the interaction parameters include support for electronic distribution of materials from the second virtual instructor (see col. 6, lines 36-63 and col. 14, lines 37-64).

**8. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### **CONCLUSION**

9. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Salad E Abdullahi whose telephone number is 571-272-4009. The examiner can normally be reached on 8:30 - 5:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Art Unit: 2157

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Abdullahi Salad  
2/20/2007



ABDULLAHI SALAD  
PRIMARY EXAMINER